IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 5447 of 2004

Between:

M/s. Geetha Wines, IL 24, Gajapathinagaram [V & M]
Vizianagaram District rep., by its license T. Krishnam Raju, S/o. Appalanarasimha Raju
Gajapathi nagaram, Vizianagaram District.

..... PETITIONER

AND

1 The Government of A.P. rep., by its Principal Secretary, Revenue Department, Secretariat
Buildings,Hyderabad.
2 The Commissioner of Prohibition & Excise, A.P.,Hyderabad.
3 The Prohibition & Excise Superintendent, Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ of mandamus or any other appropriate writ order or direction, declaring the action of the respondents 1 to 3 herein in not refunding the amount for the period from [1] 1.1.2002 to 31.3.2002 [90] days [2] 14.5.2003 to 27.9.2003 [167] days i.e., total 257 days as illegal arbitrary and unconstitutional and consequentially direct the respondents 2 & 3 to refund licensee fee for the period which the petitioner was not permitted to run the business i.e., from [1] 1.1.2002 to 31.3.2004 [90]days [2] 14.5.2003 to 27.9.2003 [167] days i.e., total 257 days.

Counsel for the Petitioner: MR.TADDI.NAGESWARA RAO

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court made the following :

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W. P. NO. 5447 OF 2004

ORDER:-

Heard both the learned counsel and at their request the main writ petition itself is taken up for disposal.

Petitioner herein who is holder of license in Form IL-24 filed this writ petition, inter alia, seeking for refund of the amount on the ground that there could not be any business for the period of 90 days and 167 days as mentioned therein.

In the counter-affidavit filed on behalf of the respondents, it is stated that though for certain period, there was no business, however, since the petitioner has not filed any application before any authority nor made any such request, the writ petition is not maintainable.

Having heard the counsel on either side and on perusal of the material on record, it is seen that in the absence of any request made by the petitioner to the effect that there was no business for certain period, the petitioner is not entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

Accordingly, this writ petition is dismissed. However, it is open to the petitioner to file representation within a period of one week from today and on filing of the same, the same shall be considered on merits and disposed of in accordance with law after giving notice within a period of two months thereafter. No costs.

22—07—2004,

stv/-

Note: Issue C.C. in two weeks.

(B.O.)

C.M.

To

1 The Principal Secretary,Government of A.P. Revenue Department, Secretariat Buildings, Hyderabad.
2 The Commissioner of Prohibition & Excise, A.P.,Hyderabad.
3 The Prohibition & Excise Superintendent, Vizianagaram District.

4 . Two CCs to GP for Prohibition and Excise, High Court buildings, Hyderabad (OUT)

5. Two CD copies